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Attorneys for Defendant Bank of America, N.A.

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

FLORAME DELOS REYES LU DO, an  
individual, and as the Court-Appointed  
Personal Representative of the Estate of  
CAYETANO LU DO, a deceased individual,

Plaintiff,

v.

BANK OF AMERICA, N.A., d/b/a BANK OF  
AMERICA CORPORATION, a Delaware  
Corporation; WELLS FARGO BANK, N.A., a  
California corporation; and ROE  
COMPANIES  
I-X, inclusive,

Defendants.

Case No. 2:14-cv-01553-GMN-VCF

**STIPULATION AND ~~PROPOSED~~ ORDER  
EXTENDING DISCOVERY PLAN  
AND SCHEDULING ORDER  
(FIRST REQUEST)**

IT IS HEREBY STIPULATED by and between the parties hereto, through their respective  
counsel of record, that the discovery cutoff and other deadlines previously established by the Court's  
Order entered November 13, 2014 (in connection with the parties' Stipulated Discovery Plan and  
Scheduling Order (Local Rule 26-1(e)), be extended and enlarged for a period of approximately 90  
to 120 days, as more fully set forth in the proposed schedule below.

This stipulation is submitted timely in that it is made prior to the expiration of the deadline  
to disclose initial experts (May 1, 2015) and at least thirty days prior to the other deadlines in the

1 Court's November 13, 2014 Order that the parties seek to extend, and it is made upon the following  
2 facts and circumstances.

3 **A. Statement of Completed Discovery:**

4 The pleadings in this case were recently closed with the Court's ruling on Bank of America,  
5 N.A.'s Motion to Dismiss the Complaint and Bank of America, N.A.'s subsequent filing of its  
6 Answer and Affirmative Defenses to the remaining claims.

7 Discovery in this matter is in its relative infancy. Each party has made their initial  
8 disclosures under FRCP Rule 26(a)(1) and LR 26-1. Defendants have propounded written discovery  
9 on Plaintiff. Plaintiff has obtained an extension allowing her to respond to Wells Fargo Bank, N.A.'s  
10 discovery requests on or before May 1, 2015. Plaintiff's responses to Bank of America, N.A.'s  
11 discovery requests are due on or before May 15, 2015. Defendants have requested to take the  
12 deposition of Plaintiff and will be scheduling it within the next 10 days. It is anticipated that  
13 Defendants will seek to take the depositions of other persons identified by Plaintiff in her written  
14 discovery responses.  
15

16 The Plaintiff has served a notice of intent to serve a subpoena for records on a third-party  
17 accounting firm. Defendants intend to review any records produced, and Bank of America, N.A.  
18 foresees that it may need to retain an expert accountant to assist with the review of any accounting  
19 records produced.  
20

21 **B. Remaining Discovery:**

22 The following discovery remains to be completed:

- 23 1. Deposition of Plaintiff;
- 24 2. Depositions of employees/agents of Defendants;
- 25 3. Depositions of other fact witnesses and others as may be necessary;
- 26 4. Depositions of Plaintiff's designated expert witnesses;
- 27 5. Depositions of Defendants' designated expert witnesses.
- 28 6. Additional written discovery, as necessary.

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### C. Grounds for Extension Request:

Through this action, Plaintiff is seeking to recover damages in excess of eleven million dollars allegedly deposited by her husband in a Bank of America, N.A. account before he died in 1983. Bank of America, N.A. has been unable to locate the alleged account. Wells Fargo Bank, N.A. denies that the funds were ever deposited with it. The number and nature of Plaintiff's claims require that the parties engage in intensive discovery, which has already begun. For this reason, Bank of America, N.A. has retained out of state counsel which is in the process of completing their applications to appear *pro hac vice* in this case.

The parties further advise the Court that (1) Plaintiff is currently undergoing cancer treatments in various locales, including southern California and Phoenix, Arizona; (2) Plaintiff believes that certain business records germane to her claims are located in the Philippines; and (3) Plaintiff believes that some of the witnesses who have knowledge regarding Plaintiff's claims live and/or work in California or other states other than Nevada.

A short extension of the deadlines set forth in the Discovery Plan and Scheduling Order would allow the parties to flesh out the claims for purposes of trial and/or settlement.

### D. Proposed Discovery Schedule

The parties reasonably believe that remaining discovery can be completed by extending the current discovery deadline and other deadlines by approximately 90 to 120 days, or as otherwise set forth below, in accordance with the following proposed schedule:

1. Discovery shall be completed on or before September 30<sup>th</sup>, 2015.
2. Disclosure of initial experts in compliance with Fed. R. Civ. P. 26(a)(2) shall be made on or before August 3<sup>rd</sup>, 2015.
3. Disclosure of rebuttal experts in compliance with Fed. R. Civ. P. 26(a)(2) shall be made no later than September 1<sup>st</sup>, 2015 (i.e. within thirty (30) days following the initial disclosure of experts).

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4. Dispositive Motions shall be filed and served on or before November 30<sup>th</sup>, 2015.
5. The Joint Pre-trial Order shall be filed on or before December 18<sup>th</sup>, 2015. In the event dispositive motions are filed, the date for filing the Joint Pre-trial Order shall be suspended until 30 days after the decision on the dispositive motions or further order of the Court. (LR 26-1(e)(5)). The disclosures required by Fed. R. Civ. P. Rule 26(a)(3) and objections thereto shall be made in the pre-trial order.

**ELLSWORTH & ASSOCIATES, LTD.**

By: /s/ Keen L. Ellsworth, Esq.  
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*Attorneys for Plaintiff*

DATED this 1<sup>st</sup> day of May, 2015.

**SMITH, LARSEN & WIXOM**

By: /s/ Kent F. Larsen, Esq.  
Kent F. Larsen, Esq.  
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*Attorneys for Wells Fargo Bank, N.A.*

DATED this 1<sup>st</sup> day of May, 2015.

**LAW OFFICES OF AMY N. TIRRE, APC**

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Amy N. Tirre, Esq.  
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*Attorneys for Defendant, Bank of America, N.A.*

DATED this 1<sup>st</sup> day of May, 2015.

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE

DATED: 5-6-2015